IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.09.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE S. MANIKUMAR
..

WRIT APPEAL No.981 of 2001
and C.M.P.No.8759 of 2001

1. A.V. Pratap
2. A.V. Arjun @ Chandran .. Appellants/Petitioners

vs.

1. The State of Tamil Nadu rep.
   by its Secretary
   Backward Classes and Most
   Backward Classes Department
   Fort St. George, Chennai 9.

2. The Special Tahsildar (Land Acquisition)
   Adi-Dravidar Welfare, Tiruppur
   Coimbatore District. .. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice P.D. Dinakaran dated 27.03.2001 made in W.P.No.2771 of 1994 and W.M.P.No.4506/1994.

W.P.No.2771/1994: Petition under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records relating to the order of the 1st Respondent in G.O.(3D) No.130, Backward Classes and Most Backward Classes Welfare Department dated 7.10.1993 and the order of the 2nd Respondent in his Na.Ka.No.1526/92/A dated 10.1.1994 and to quash the same.

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For appellants : Mr. R. Gandhi, Sr. Counsel
for Mr. R.G. Narendhiran

For respondents: Mr. C. Thirumaran, Government Advocate
..

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JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

This writ appeal is directed against the order of the learned single Judge dated 27.03.2001 made in W.P.No.2771 of 1994 in and by which the learned Judge quashed the acquisition proceedings in so far as it relates to the acquisition of land of an extent of 1.41.5 hectares located in Survey No.257 in Chettipalayam Village, Tiruppur Taluk, Coimbatore District and dismissed the writ petition in so far as Survey Nos.256/1 and 260 in the same Village and Taluk are concerned. Against that, the petitioners preferred the above appeal.

2. Heard Mr. R. Gandhi, learned senior counsel for the appellants and Mr. C. Thirumaran, learned Government Advocate for the respondents.

3. At the foremost, the learned senior counsel for the appellants submitted that inasmuch as the lands were sought to be acquired for provision of house sites for Backward Class and Most Backward Class people and the acquisition was initiated by the Special Tahsildar, Adi Dravidar Welfare, it is but proper to hear the views of the requisitioning body, viz., Backward Class and Most Backward Class Welfare Department in the enquiry under Section 5-A of the Tamil Nadu Land Acquisition Act (in short "the Act"). According to him, failure to do so vitiates the acquisition proceedings. He further contended that the respondents failed to publish declaration made under Section 6 of the Act in two dailies and publication in one daily, viz., "Dhinamalar" is not in consonance with the provisions of Section 6 of the Act. He finally contended that in view of error in showing the extent of land in the gazette and in the newspaper, in the absence of proper application of mind and rectification, the acquisition proceedings are liable to be quashed.

4. On the other hand, learned Government Advocate submitted that the acquisition proceedings were initiated and completed in accordance with the provisions of the Act and Rules and there is no error or flaw for interference.

5. A perusal of the order of the learned single Judge shows that after noting that there is an error in showing the survey number in respect of the extent of 1.41.5 hectares of land in the Tamil Nadu Government gazette publication, the learned Judge accepting the claim of the petitioners, quashed the acquisition proceedings in so far as it relates to the said land, of course, without prejudice to the rights of the respondents to initiate appropriate fresh acquisition proceedings. We are therefore

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concerned with the lands in Survey Nos.256/1 and 260 in Chettipalayam Village, Tiruppur Taluk, Coimbatore District.

6. Coming to the first contention, as rightly pointed out, the land acquisition proceedings were initiated for the purpose of providing house sites to Backward Class and Most Backward Class people. The acquisition proceedings were initiated by Special Tahsildar, Adi Dravidar Welfare and the requisitioning body is Backward Class and Most Backward Class Welfare Department. In view of the amendment made to Rule 3(b) [now 4(b)] of the Rules with effect from 11.06.1991, it is clear that the respondents have to issue notice to the requisitioning Department. Admittedly, though the petitioners / appellants have filed objections within the prescribed time, the same was not forwarded to the requisitioning Department, viz., Backward Class and Most Backward Class Welfare Department and after getting their views, no further enquiry was conducted under Section 5-A of the Act. The said aspect has not been disputed by the learned Government Advocate. The learned Judge though relied on an earlier decision in Writ Petition No.3322 of 1994 in Dr.I.Pitchai Robert vs. The State of Tamil Nadu and two others, in view of the amendment referred to above, which came into force on 11.06.1991, we are unable to accept the conclusion arrived at by the learned Judge.

7. In view of the above conclusion, we are of the view that it is unnecessary for this Court to go into other contentions.

In the light of what is stated above, acquisition proceedings in respect of Survey Nos.256/1 and 260 in Chettipalayam Village, Tiruppur Taluk, Coimbatore District are quashed; however, the respondents are at liberty to proceed afresh if they so desire in accordance with law. With the above observation, this writ appeal is allowed. No costs. Consequently, connected CMP., is closed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary
   State of Tamil Nadu
   Backward Classes and Most
   Backward Classes Department
   Fort St. George, Chennai 9.

2. The Special Tahsildar (Land Acquisition)
   Adi-Dravidar Welfare, Tiruppur
   Coimbatore District.

1 cc to the Government Pleader, SR.40212
1 cc to Mr.R.G.Narendhiran, Advocate, SR.40017

bv (co)

dv/13.9.06

Judgement in
Writ Appeal No.981 of 2001

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